

leave in State court class actions in which the plaintiffs and defendants are all residents of the same State, class actions with fewer than 100 plaintiffs, class actions that involve less than \$5 million, shareholder class actions alleging breaches of fiduciary duty, any class action in which a State government entity is a primary defendant, and any class actions brought against a company in its home State in which two-thirds or more of the class members are also residents of that State.

Secondly, the average State court judge is assigned three times as many cases as his or her Federal counterparts. State court judges are assigned, on average, about 1,500 new cases each year. For example, in California, the average judge was assigned 1,501 cases in 2001. In Florida, the average was 2,210. In New Jersey, the average was 2,620. In Texas, it was a little over 1,600 cases. In contrast, each Federal court judge was assigned an average of 518 new cases during the 12-month period ending September 30, 2002.

The exponential growth of State court class action filings over the last decade has added to the workload problem of State court judges who, in many cases, unlike their Federal counterparts, do not have a number of law clerks, magistrate judges, or special masters to help with particularly time-consuming tasks involving supervising complex cases. Since many State courts or tribunals of general jurisdiction hear all sorts of cases, from traffic violations, to divorces, to felonies, judges who are distracted by class actions do not have enough time to focus on providing basic legal services for the community that they serve.

Finally, recent surveys have shown that the majority of class actions in many jurisdictions would remain in State court under this bill. As far as those cases that could be heard in Federal court under S. 5, many of them involve copycat class actions filed in different jurisdictions, which Federal judges can consolidate under one judge. Therefore, moving more class actions to Federal court would actually reduce the burden for everyone.

Ultimately, this bill will allow claims with merit to go forward while preventing judicial blackmail. That has become, unfortunately, something involved in our judiciary today.

I urge my colleagues to vote a clean class action bill out of the Senate, to vote against any amendments that would dilute the bill and stop us from moving this reform forward, and that would help in job creation in the United States. This is a small measure. I think we should do more, but it is an appropriate measure. It moves us in the right direction. It helps in the creation of jobs in the United States and in litigation reform, which we desperately need in this country.

These sort of bipartisan, modest steps, while they won't have perhaps as big a positive impact as we would like them to have, will have a positive im-

pact on the judicial system and in helping us to reform that. That is something we need to do. We need to move forward on the budget deficit, we need to move forward to make sure we have a true trust fund in Social Security, and we need to move forward in litigation reform. All these are positive steps for our future. I hope we can continue, as with this bill, to work it forward on a bipartisan basis.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 3, AS MODIFIED

Mr. DURBIN. Mr. President, earlier I offered an amendment at the desk which needs to be modified. I ask that the amendment, under the rules, be modified accordingly to reflect the pages and lines of the bill.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 21, before the semicolon at the end of line 2, insert "or by the court sua sponte". On page 21, line 9, strike "solely".

Mr. DURBIN. Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IRAQ VOTES FOR FREEDOM

Mr. ENSIGN. Mr. President, I rise to speak about the recent historic elections in Iraq—elections that had been anticipated by an anxious global community for some time.

This election is the story of true patriots who knew the odds and decided to beat them. This is the story of the millions of Iraqis who defied the threats and the intimidation of "terrorists" to cast their votes for a brighter future in Iraq.

News reports are flush with firsthand accounts from observers. The reports paint a picture of a people acting on their innate desire to be free.

One such account details the determination of Samir Hassan, who at 32

lost his leg in a car bomb blast last October. Hassan said, "I would have crawled here if I had to. I don't want terrorists to kill other Iraqis like they tried to kill me. Today I am voting for peace."

The act of voting by ordinary Iraqis in the face of extreme danger confirms President Bush's belief that people around the globe, when given a chance, will choose liberty and democracy over enslavement and tyranny. Human beings crave freedom at their core.

Early estimates by Iraq's Independent Electoral Commission show that about 8 million of the nearly 14 million registered voters cast their ballot on Sunday—a turnout almost equal to the number of Americans who voted last November without the threat of snipers or suicide bombers.

In the words of Arkan Mahmoud Jawad, who came to vote with his mother and younger brother, "This is the salvation for the Iraqis. I hate the terrorists, and now, I am fighting them by my vote."

These are people who were beaten down by the brutal regime of Saddam Hussein. That is exactly why they want to reclaim their country through these elections. They know what the cost of failure would be.

And they know all too well that tyranny breeds isolation. Any dissent from Saddam Hussein's regime could result in torture or death. Neighbors couldn't trust neighbors. Families were torn apart. All this leaves scars on a nation that may take generations to heal.

I believe that voting is the first act of building a community as well as building a country. With the election we saw a peaceful majority reclaiming their birthright. We saw people gaining courage from realizing that they were not alone—that their friends and neighbors and relatives were going to vote—and that they could vote too. Together they are building their future.

Here is one description of how voting progressed:

The first Iraqis on the streets seemed tense as well, not smiling and not waving back. But as the day unfolded, and more and more voters took to the streets, a momentum seemed to gather, and by mid-morning Karada's main street was jammed with people who had voted and people on their way to vote. Some Iraqis, walking out of the polling places, used their cellphones to call friends and urge them to come. Some banged on their neighbors' doors and dragged them out of bed. Old men rolled up in wheelchairs. Women came in groups, lining up in their long, black, head-to-toe abayas. The outpouring, which filled Karada's streets with Shiites, Christians and even some Sunnis, surprised the Iraqis themselves. When Ehab Al Bahir, a captain in the Iraqi Army, arrived at Marjayoon Primary School, he braced himself for insurgent attacks. The mortar shells arrived, as he anticipated, but so did the Iraqi voters, which he did not.

Voting was an act of defiance against the terrorists and an affirmation that Iraqis control their own destiny through self-government. The people of Iraq realize that a stable, successful,

democratic Iraq can only come about if average Iraqis are willing to sacrifice to build it.

On Sunday, they rose to the occasion. Some lost their lives, but their lives were not lost in vain. I am convinced that a country by the Iraqi people and for the Iraqi people will be built on the foundation laid down by the voters on Sunday. And having sacrificed to gain a democratic Iraq, they won't let it go easily.

Baghdad's mayor was overwhelmed by the turnout of voters at city hall where thousands were celebrating and holding up their purple ink-stained fingers with pride. The mayor said, "I cannot describe what I am seeing. It is incredible. This is a vote for the future, for the children, for the rule of law, for humanity, for love." It is truly a new beginning for Iraq.

The election in Iraq clearly demonstrates that Iraqi people are like people everywhere. They desire to create a future in an environment that is safe and allows them to reach their full potential as human beings, whatever that potential may be. The election did not occur in a vacuum. It is the latest and most dramatic example of Iraqis taking control of their country's destiny.

In less than a year, the Iraqi Regular Army and Intervention Forces have grown from one operational battalion to 21 battalions, with six more scheduled to become operational over the next month.

Last month, the Iraqi National Guard was incorporated into the Army, making a total of 68 Iraqi battalions conducting operations.

Today, the Iraqi Police Service has over 55,000 trained and equipped police officers, more than double the amount of just 6 months ago. More than 38,000 additional police are on duty and scheduled for training.

As of last month, more than 108,000 local Iraqis had been hired to work on U.S.-funded reconstruction projects, using as many local subcontractors as possible.

Yes, things are, indeed looking up for Iraq and the Iraqi people. But there is still hard work ahead. It is a difficult process to transform a society that has never known democracy. One hopeful sign occurred earlier this week when influential figures from the Sunni community signaled their willingness to engage the new Iraqi government and play a role in drafting the constitution. Thirteen parties, including a representative of the powerful Association of Muslim Scholars and other parties that boycotted the vote, agreed Thursday to take part in the drafting of the constitution, which will be the transitional parliament's main task. The leading Shiite candidate to be Iraq's new Prime Minister welcomed these overtures and said he was willing to "offer the maximum" to involve Sunni Arabs in the new government.

Yes, change takes time, and only time will tell if the Iraqi election will

go down as one of the most important dates in modern history. I'm inclined to believe it will. But between now and when the history books are written it was enough, for me, to stand in awe of the courage of a free people half a world away.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On September 24, 2004, a young man was attacked outside of a club in Davis, CA. The attack on the victim was apparently due to a case of mistaken identity. The victim in the case resembled a gay man known by the assailant, and the attack was motivated by the attacker's belief that the victim was gay. During the attack, the victim suffered a broken nose and was knocked unconscious by his assailant. The attacker repeatedly yelled slurs regarding the victim's sexual orientation during the assault.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### DEAN MEINEN

Mr. JOHNSON. Mr. President, I rise today to publicly recognize Dean Meinen of my D.C. staff on his contributions and accomplishments to my office and the State of South Dakota. For years, Dean Meinen has served as my economic development director. He is leaving my office to go work with Strategic Marketing Innovations, which represents science and technology firms throughout the country.

I know first hand that Dean has done a great deal to enhance opportunity and prosperity all across South Dakota. He is an extraordinarily talented person with a great deal of energy and ambition. Dean is not only a great friend, but a well-respected staffer throughout the U.S. Senate. He has earned the respect and admiration of all those who have had the opportunity to work with him. His passion and love for his work have improved the lives of countless South Dakotans. Dean's friendly demeanor and wealth of knowledge have helped him develop close relationships with his colleagues and with community leaders throughout our State. His tireless effort to dig

for details and explore all sides of particular issues reflects both his skill and his dedication to his work.

I first met Dean when he was a fresh-faced young man that I hired for an entry-level mail processing job. I was impressed by his enthusiasm, his belief in the good people of South Dakota, and his political abilities that were developed well beyond his years. A few years later, I asked him to run my 1994 reelection campaign. After the campaign was over, I hired him back to do legislative work in my congressional office. For the past several years, he has served as my economic development director and has worked very hard to advance South Dakota's prosperity and to diversify our economy.

Dean's departure is a huge loss to South Dakota, and I personally know that he struggled with the decision to leave my office. His kind of leadership and character is exactly what the economic development community needs to evolve and succeed in the future. I wish but the best for him on all his exciting new challenges and opportunities. It is with great honor that I share his impressive accomplishments with my colleagues.

#### BLACK HISTORY MONTH

Mr. SMITH. Mr. President, each Congress I rise to honor February as Black History Month. Each February since 1926, our Nation has recognized the contributions of Black Americans to the history of our Nation.

This is no accident; February is a significant month in Black American history. Abolitionist Frederick Douglass, President Abraham Lincoln, and scholar and civil rights leader W.E.B. DuBois were born in the month of February. The 15th Amendment to the Constitution was ratified 132 years ago this month, preventing race discrimination in the right to vote. The National Association for the Advancement of Colored People was founded in February in New York City. Last Tuesday, February 1, was the 45th anniversary of the Greensboro Four's historic sit-in. And on February 25, 1870, this body welcomed its first black Senator, Hiram R. Revels of Mississippi.

In this important month I want to celebrate some of the contributions made by Black Americans in my home State of Oregon. Since Marcus Lopez, who sailed with Captain Robert Gray in 1788, became the first person of African descent known to set foot in Oregon, a great many Black Americans have helped shape the history of my State. Throughout this month, I will come to the floor to highlight some of their stories.

Beatrice Cannady moved to Oregon in 1910. Soon thereafter she married E.D. Cannady, who was the founder of the Advocate, Portland's only African-American newspaper at the time. Beatrice Cannady quickly became one of the most important civil rights activists in Oregon. Just 4 years after her